

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

KENARA VONZELL MCDAVID

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:18-cv-00211-CWR-FKB

CITY OF FLOWOOD, MISSISSIPPI, ET AL.

DEFENDANTS

ORDER

This matter came before the Court on an Emergency Motion for Order Governing the Preservation of Evidence [4] filed by Defendant City of Flowood, Mississippi.

The Court, having reviewed the motion, McDavid's response, and Flowood's rebuttal, finds that an order directing the preservation of the surveillance footage is necessary to prevent the potential spoliation of evidence. *See AT&T Mobility LLC v. Arena Trading, Inc.*, No. 3-08-CV-0330-P, 2008 WL 624104, at *1 (N.D. Tex. Mar. 5, 2008) (granting urgent and necessitous motion for the preservation of evidence); *Stewart v. Durham*, Civ. Action No.: 3:16-cv-744 (S.D. Miss. June 8, 2017)(ordering that Pileum Corporation take custody of ESI to prevent possible spoliation of evidence).

IT IS THEREFORE ORDERED that at 1:30 p.m. on April 23, 2018, an employee or representative of the Pileum Corporation ("Pileum"), which is located at 190 East Capitol Street, Suite 175, Jackson, Mississippi 39201, (601) 352-2120, will travel to the The Kroger Company's local store ("Kroger store") located at 143 Friendly and Fresh Drive in Flowood, Mississippi 39232 and receive and take control of any and all electronic equipment on which the original surveillance footage of the store's parking lot from March 8, 2018 is stored. A representative of the Kroger store will provide to Pileum's employee or representative all such equipment and any additional information required to access the surveillance footage from March 8, 2018.

Upon receipt of same, Pileum shall:

1. Create a chain of custody document as to all equipment and items received from the Kroger store, and the subsequent return of the equipment and items to the Kroger store located at 143 Friendly and Fresh Drive, Flowood, Mississippi 39232.
2. Create a forensic copy of the video surveillance footage of the Kroger store's parking lot from the entire day of March 8, 2018.
3. Create a report representing whether any alterations of the original surveillance footage of the Kroger store's parking lot from March 8, 2018 had been made prior to its taking receipt of the equipment on which the footage is stored.
4. Return to the Kroger store, located at 143 Friendly and Fresh Drive, Flowood, Mississippi 39232, any and all electronic equipment and any other items it received from the Kroger store.
5. Provide a forensic copy of the video surveillance footage of the Kroger store's parking lot from the entire day of March 8, 2018, to the attorneys in this matter, George McDowell Yoder, III, and G. Todd Butler, and Monte L. Barton, Jr.

SO ORDERED, this the 23rd day of April, 2018.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE